

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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ROBERT LEE MITCHELL, JR.,

Case No. 3:21-cv-00086-HDM-CLB

Petitioner,

ORDER

v.

DONALD J. TRUMP, et al.,

Respondents.

Robert Lee Mitchell, Jr. has submitted what he has styled as a *pro se* petition for illegal sentence. His application to proceed *in forma pauperis* is granted. The court has reviewed the petition pursuant to Habeas Rule 4 and finds that it must be dismissed for failure to state a claim cognizable in federal habeas corpus.

This court may entertain a petition for writ of habeas corpus “in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2254(a). Alleged errors in the interpretation or application of state law do not warrant habeas relief. *Hubbart v. Knapp*, 379 F.3d 773, 779-80 (9th Cir. 2004).

Here, Mitchell claims he is entitled to immediate release. The basis of this claim is unclear; he states only that “the Nevada Department of Corrections has a 99-year lease to occupy lands, which does not convert the land to state jurisdiction. . . . the NRS statutes are not really positive true law.” (ECF No. 1). These are frivolous allegations that do not state a claim for which federal habeas corpus relief may be granted. The court further notes that, while Mitchell names the President of the United States and the

1 Secretary of the Interior as respondents, the proper respondent for a § 2254 habeas
2 corpus petition is the state official who has custody of the petitioner (generally the
3 warden of the institution where petitioner is held). Rule 2(b) of the Rules Governing
4 Section 2254 Cases. In any event, this petition is dismissed for failure to state a claim
5 cognizable in federal habeas corpus.

6 The court will not issue a certificate of appealability, as reasonable jurists would
7 not debate the dismissal of this petition.

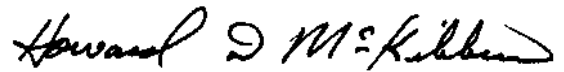
8 **IT IS THEREFORE ORDERED** that petitioner's application to proceed in forma
9 pauperis (ECF No. 2) is **GRANTED**.

10 **IT IS FURTHER ORDERED** that the petition is dismissed for failure to state a
11 claim cognizable in federal habeas corpus.

12 **IT IS FURTHER ORDERED** that a certificate of appealability is denied.

13 **IT IS FURTHER ORDERED** that the Clerk enter judgment accordingly and close
14 this case.

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16 DATED: 7 April 2021.

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HOWARD D. MCKIBBEN
19 UNITED STATES DISTRICT JUDGE
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